

Part 10

Trademarks, Trade Names, and Devices

76-10-1001 Definitions.

For the purpose of this part:

- (1) "Forged trademark," "forged trade name," "forged trade device," and "counterfeited trademark," "counterfeited trade name," "counterfeited trade device," or their equivalents, as used in this part, include every alteration or imitation of any trademark, trade name, or trade device so resembling the original as to be likely to deceive.
- (2) "Trademark" or "trade name" or "trade device," as used in this part, includes every trademark registrable with the Division of Corporations and Commercial Code.

Amended by Chapter 66, 1984 General Session

76-10-1002 Forging or counterfeiting trademark, trade name or trade device.

Every person who willfully forges or counterfeits, or procures to be forged or counterfeited, any trademark, trade name, or trade device, usually affixed by any person, or by any association or union of workingmen, to his or its goods, which has been filed with the Division of Corporations and Commercial Code, with intent to pass off any goods to which the forged or counterfeited trademark, trade name, or trade device is affixed, or intended to be affixed, as the goods of the person or association or union of workingmen, is guilty of a class B misdemeanor.

Amended by Chapter 66, 1984 General Session

76-10-1003 Selling goods under counterfeited trademark, trade name or trade device.

Every person who sells or keeps for sale any goods upon or to which any counterfeited trademark, trade name, or trade device has been affixed, after it has been filed with the Division of Corporations and Commercial Code, intending to represent the goods as the genuine goods of another, knowing it to be counterfeited, is guilty of a class B misdemeanor.

Amended by Chapter 66, 1984 General Session

76-10-1004 Sales in containers bearing registered trademark of substituted articles.

Every person who has or uses any container or similar article bearing or having in any way connected with it the registered trademark of another for the purpose of disposing, with intent to deceive or defraud, of any article or substance other than that which the container or similar article originally contained or was connected with by the owner of such trademark is guilty of a class B misdemeanor.

Enacted by Chapter 196, 1973 General Session

76-10-1005 Using, destroying, concealing or possessing articles with registered trademark or service mark to deprive owner of use or possession -- Exception.

Every person who, without the consent of the owner of an article bearing the owner's validly registered trademark or service mark, uses, destroys, conceals, or possesses the article or who defaces or otherwise conceals the trademark or service mark upon the article with intent to deprive the owner of the use or possession of the article is guilty of a class B misdemeanor; provided,

however, that nothing contained in this part shall be construed to apply to or restrict the transfer or use of wooden boxes or the re-use of burlap or cotton bags or sacks when those bags or sacks have been reversed inside out or the markings thereon have been concealed or obliterated to effectively demonstrate that the products contained therein do not purport to be the products of the owner of the registered trademark or service mark theretofore put upon those bags.

Amended by Chapter 20, 1995 General Session

76-10-1006 Selling or dealing with articles bearing registered trademark or service mark with intent to defraud.

Every person who, without the consent of the owner of an article bearing the owner's validly registered trademark or service mark, knowingly sells or traffics in the articles or who withholds the articles from the owner thereof with intent to defraud the owner thereof is guilty of a class B misdemeanor.

Enacted by Chapter 196, 1973 General Session

76-10-1007 Use of registered trademark without consent.

Every person who adopts or in any way uses the registered trademark of another without the consent of the owner thereof, is guilty of a class B misdemeanor.

Enacted by Chapter 196, 1973 General Session

76-10-1008 Inspections by trade commission.

Subject to the provisions of Section 76-10-1009 of this part, the Utah State Trade Commission may, for purposes of enforcement of this part, inspect the premises of any business operating in this state during regular business hours.

Amended by Chapter 20, 1995 General Session

76-10-1009 Violation as unfair trade practice and unfair competition -- Investigation and enforcement proceedings by trade commission.

Violation of a provision of this part is hereby declared to be an unfair trade practice and an unfair method of competition. The Utah state trade commission shall have jurisdiction over violations and may proceed against a violator as provided by the trade commission act. The trade commission may institute an investigation upon receiving an informal complaint from a person who claims to have been injured by the violation of this part. Upon receiving a sworn complaint from a person claiming to be injured by a violation of this part, the trade commission must institute an investigation. If evidence of a violation is found by the commission or is produced by the complainant, the commission must take appropriate enforcement proceedings as provided in the trade commission act.

Enacted by Chapter 196, 1973 General Session

76-10-1010 Action by law enforcement agencies on complaints.

Nothing in this part providing for enforcement by the trade commission shall be construed to deprive law enforcement agencies from assuming jurisdiction and acting upon a proper complaint as provided by law.

Enacted by Chapter 196, 1973 General Session